

REMARKS

Objections

Claim 14 stands objected to because it is incomplete. Applicants have amended this claim as helpfully suggested by the Examiner without prejudice as to patentability. Accordingly, Applicants respectfully request that this objection be withdrawn.

35 U.S.C. §103 Rejection

Claims 1-20 stand rejected under 35 U.S.C. §103 as being unpatentable over Javors (US 2002/0152097) in view of McCallum (5,784,635). This rejection is respectfully traversed.

Javors teaches a benefit plan and a method of administration and health management directed to helping companies and patients manage health care costs. Specifically, Javors teaches providing a benefit plan comprising a Health Care Account and an Umbrella Account, collecting premiums for deposit into the benefit plan to form funded a Health Care and Umbrella Account, processing claims made by a benefit plan beneficiary, disbursing funds from the funded Health Care and Umbrella Account to pay the processed claims, and distributing any remaining funds in the funded Health Care and Umbrella Account to the beneficiaries (see Abstract and claim 1). Javors fails to teach or suggest a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network. Nor does Javors teach or suggest a method of collecting fees for managing and optimizing the profitability of an insurance network having a plurality of physicians in a healthcare practice participating therein. Javors' benefit plan and method for benefit administration is designed to encourage benefit plan beneficiaries (i.e., patients) to become more involved in their health care through a system of financial reward (see page 4, Paragraph 0050), rather than manage and optimize the profitability of the physicians in a healthcare practice participating in an insurance network and the profitability of the insurance network as well.

McCallum describes a software system and method for rationalizing physician data to allow physicians to more effectively negotiate with insurers. Specifically, McCallum teaches

that source data expected to be in diverse formats and syntax is first converted to a common format, and then cross-referenced and cleaned against standard data resources. Source data is subsequently ready to be accumulated into a standard database of universal format. Such a database is used to provide reports to physician groups and Independent Practice Associations to support critical information system (see Abstract and claims 1 and 7). McCallum fails to teach or suggest a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network or the profitability of an insurance network having a plurality of physicians in a healthcare practice participating therein.

In contrast, the present invention teaches providing incentives to physicians to help them control their own costs more effectively to thereby receive better reimbursement from the insurance carrier or for the insurance carrier to make effective physician group management decisions.

Applicants believe that the Examiner's rejection is improper for at least three reasons. First, each of Javors and McCallum fails to disclose or suggest what the Examiner alleges it discloses (see the above discussion and the detailed remarks below). Instead, Applicants believe that the Examiner has improperly taken elements from each of Javors and McCallum out of context. Second, because there is no motivation to combine these patent documents, Applicants believe that the Examiner has used improper hindsight by using Applicants' patent application disclosure as a road map to then piecemeal elements from these Javors and McCallum patent documents together in an attempt to reject the claims. Third, Applicants also believe that even if these patent documents were somehow combinable, the result of the combination would not be the claimed invention. In detail, Applicants wish to present the following remarks to each of the Examiner's comments ((A) - (T)).

(A) As per claim 1, Javors describes the benefit plan and method for benefit administration (Abstract, lines 1-16). In the section titled "Background of the Invention" of the Javors patent document, Javors describes today's model of health care delivery (Page 1, Paragraph 0014-0016). Javors further describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the

deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0085). In the section titled "Brief Summary of the Invention", Javors summarizes the benefit plan and method for benefit administration as discussed in the Abstract (Page 3, Paragraph 0037-0040).

Javors does not teach a method of collecting fees for managing and optimizing the profitability of the physicians in a healthcare practice participating in an insurance network as claimed in the present invention. In his method, Javors does not teach establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network. Nor does Javors teach paying the funds to the healthcare practice if the ancillary medical costs of the physicians in the healthcare practice do not decrease to a preselected level over a preselected period of time.

McCallum describes reporting patient-blind or patient-specific information to physicians and Independent Practice Associations to optimize the effective clinical care and manage costs better (Col. 8, lines 36-67 to Col. 9, line 22). McCallum does not teach a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network. McCallum does not even remotely suggest establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network. Nor does McCallum teach paying the funds to the healthcare practice if the ancillary medical costs of the physicians in the healthcare practice do not decrease to a preselected level over a preselected period of time.

(B) As per claim 2, Javors describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0085). Javors does not teach distributing predetermined percentage of savings by dividing the savings among the healthcare consultation group, the healthcare practice and the insurance network. In fact, Javors does not

even suggest establishing a relationship between the healthcare consultation group and the healthcare practice.

(C) As per claim 3, Javors describes today's model of health care delivery, which includes disease state management (DSM). Javors further describes that DSM program in its current state has failed to deliver strong results in improving health in patients or in lowering insurance costs for employers (Page 2, Paragraph 0031-0034). Such disclosure is a part of the background information. It has nothing to do with Javors' claimed method.

(D) As per claim 4, Javors describes a benefit plan comprising three "spending" accounts and a method for benefit administration which encourages benefit plan beneficiaries (i.e., patients) to become more involved in their health care through a system of financial reward (Page 3, Paragraph 0050-0055). Javors does not teach anything about distributing differentiated predetermined percentages of savings to the healthcare consultation group, healthcare practice and insurance network.

(E) As per claim 5, Javors describes a benefit plan, a method for funding such a benefit plan, and a method for administering such a benefit plan (Page 5, Paragraph 0072-0076). Javors does not teach providing a billing structure wherein the savings are calculated by subtracting current ancillary medical costs from predetermined baseline ancillary medical costs.

(F) As per claim 6, Javors describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0086) and a method of distributing funds in Health Care and Umbrella Account to better motivate the patient to become a more discerning consumer of medical care (Page 7, Paragraph 0098-0101). Javors does not teach calculating a fee for a healthcare consultation group. In fact, Javors does not even mention any involvement of a healthcare consultation group in their benefit plan and method of administering the plan.

(G) As per claim 7, Javors describes that his health team information system comprises multiple components (Page 10, Paragraph 0174-0186). Javors, however, does not teach establishing a relationship between a healthcare consultation group and the healthcare practice

participating in an insurance network to increase the physician's profitability, let alone paying the healthcare practice if the various ancillary medical costs do not decrease to a preselected level over a preselected period of time.

(H) As per claim 8, Javors describes the benefit plan and method for benefit administration (Abstract, lines 1-16). In the section titled "Background of the Invention", Javors describes today's model of health care delivery (Page 1, Paragraph 0014-0016). Javors further describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0085). In the section titled "Brief Summary of the Invention", Javors summarizes the benefit plan and method for benefit administration as discussed in the Abstract (Page 3, Paragraph 0037-0040).

Javors does not teach a method of collecting fees for managing and optimizing the profitability of the physicians in a healthcare practice participating in an insurance network as claimed in the present invention. In his method, Javors does not describe establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network. Nor does Javors teach distributing predetermined percentages of savings between the healthcare consultation group, the healthcare practice and the insurance network.

McCallum describes reporting patient-blind or patient-specific information to physicians and Independent Practice Associations to optimize the effective clinical care and manage costs better (Col. 8, lines 36-67 to Col. 9, line 22). McCallum does not teach a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network. McCallum does not even remotely suggest establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network. Nor does McCallum teach distributing predetermined percentages of savings between the healthcare consultation group, the healthcare practice and the insurance network.

(I) As per claim 9, Javors describes today's model of health care delivery, which includes disease state management (DSM). Javors further describes that DSM program in its current state has failed to deliver strong results in improving health in patients or in lowering insurance costs for employers (Page 2, Paragraph 0031-0034). Such disclosure is a part of the background information. It has nothing to do with Javors' claimed method.

(J) As per claim 10, Javors describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0085). Javors does not teach distributing predetermined percentage of savings by dividing the savings among the healthcare consultation group, the healthcare practice and the insurance network. In fact, Javors does not even suggest establishing a relationship between the healthcare consultation group and the healthcare practice.

(K) As per claim 11, Javors describes today's model of health care delivery, which includes disease state management (DSM). Javors further describes that DSM program in its current state has failed to deliver strong results in improving health in patients or in lowering insurance costs for employers (Page 2, Paragraph 0031-0034). Such disclosure is a part of the background information. It has nothing to do with Javors' claimed method.

(L) As per claim 12, Javors describes a benefit plan comprising three "spending" accounts and a method for benefit administration which encourages benefit plan beneficiaries (i.e., patients) to become more involved in their health care through a system of financial reward (Page 3, Paragraph 0050-0055). Javors does not teach distributing differentiated predetermined percentages of savings to the healthcare consultation group, healthcare practice and insurance network.

(M) As per claim 13, Javors describes the benefit plan and method for benefit administration (Abstract, lines 1-16). In the section titled "Background of the Invention", Javors describes today's model of health care delivery (Page 1, Paragraph 0014-0016). Javors further teaches a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is

met (Page 6, Paragraph 0084-0085). In the section titled "Brief Summary of the Invention", Javors summarizes the benefit plan and method for benefit administration as discussed in the Abstract (Page 3, Paragraph 0037-0040).

Javors does not teach a method of collecting fees for managing and optimizing the profitability of an insurance network having a plurality of physicians in a healthcare practice participating therein as claimed in the present invention. In his method, Javors does not describe establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the insurance network's profitability by limiting the plurality of physicians' ancillary medical cost management behavior that is not preferred by the insurance network. Nor does Javors teach distributing predetermined percentages of savings attributed to the physicians' modified ancillary medical cost management behavior.

McCallum describes reporting patient-blind or patient-specific information to physicians and Independent Practice Associations to optimize the effective clinical care and manage costs better (Col. 8, lines 36-67 to Col. 9, line 22). McCallum does not teach a method of collecting fees for managing and optimizing the profitability of an insurance network having a plurality of physicians in a healthcare practice participating therein as claimed in the present invention. McCallum does not even remotely suggest establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the insurance network's profitability by limiting the plurality of physicians' ancillary medical cost management behavior that is not preferred by the insurance network. Nor does McCallum teach distributing predetermined percentages of savings attributed to the physicians' modified ancillary medical cost management behavior.

(N) As per claim 14, McCallum describes reporting patient-blind or patient-specific information to physicians and Independent Practice Associations to optimize the effective clinical care and manage costs better (Col. 8, lines 36-67 to Col. 9, line 22). McCallum does not teach funding an incentive pool to be paid to the insurance network if the modified medical management practice does not decrease ancillary medical costs of the insurance network to a preselected level over a preselected period of time.

(O) As per claim 15, Javors describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0085). Javors does not teach distributing predetermined percentage of savings by dividing the savings among the healthcare consultation group, the healthcare practice and the insurance network. In fact, Javors does not even suggest establishing a relationship between the healthcare consultation group and the healthcare practice.

(P) As per claim 16, McCallum describes reporting patient-blind or patient-specific information to physicians and Independent Practice Associations to optimize the effective clinical care and manage costs better (Col. 8, lines 36-67 to Col. 9, line 22). McCallum does not teach that no fee is collected by any of the healthcare consultation group, the healthcare practice and the insurance network if the insurance network does not decrease ancillary medical costs to the preselected level over the preselected period of time.

(Q) As per claim 17, Javors describes a method of disbursing funds from the funded Health Care or Umbrella Account to medical providers or benefit plan beneficiary after the deductible amount of the benefit plan is met (Page 6, Paragraph 0084-0086) and a method of distributing funds in Health Care and Umbrella Account to better motivate the patient to become a more discerning consumer of medical care (Page 7, Paragraph 0098-0101). Javors does not teach distributing differentiated predetermined percentages of savings to the healthcare consultation group, healthcare practice and insurance network. In fact, Javors does not even mention any involvement of a healthcare consultation group in their benefit plan and method of administering the plan.

(R) As per claim 18, Javors describes self-funded purchasing alliance using the reserve function of any self-funded entity to lower cost in the long run (Page 10, Paragraph 0174-0176). However, Javors does not teach a billing structure wherein the savings are calculated by subtracting current ancillary medical costs from predetermined baseline ancillary medical costs.

(S) As per claim 19, Javors describes a method of health management to provide long term benefits to employers and employees. Specifically Javors teaches that such benefits arise

through stabilization of premium costs over successive years and through better treatment of employee's health concerns (Page 7, Paragraph 0110-0115). Javors does not teach calculating a fee for a healthcare consultation group by multiplying a predetermined percentage of the savings by the number of patients participating in the healthcare practice.

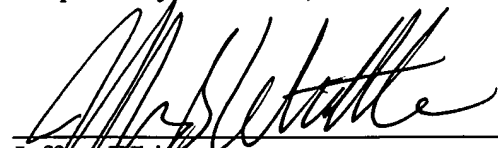
(T) As per claim 20, Javors describes that his health team information system comprises multiple components (Page 10, Paragraph 0174-0188). Javors, however, does not teach a method of collecting fees for managing and optimizing the profitability of an insurance network by establishing a relationship between a healthcare consultation group and the healthcare practice participating in an insurance network to increase the insurance network's profitability by limiting the plurality of physicians' ancillary medical cost management behavior that is not preferred by the network.

In view of the above remarks, Applicants believe that the combination of Javors in view of McCallum neither rises to the level of a proper prima facie 35 U.S.C. §103 rejection nor renders obvious Claims 1-20. One skilled artisan would not have produced the present invention based on the teachings or suggestions of Javors and McCallum, alone or combined. Therefore, Applicants respectfully request that the rejection of Claims 1-20 under 35 U.S.C. §103 be withdrawn.

CONCLUSION

In view of the amendments and remarks set forth herein, Applicants respectfully submit that the application is in condition for allowance. Accordingly, the issuance of a Notice of Allowance in due course is respectfully requested.

Respectfully submitted,



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In re Patent Application of
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